THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.4819 OF 2006

Dated: 10-03-2006

Between

Uddandam Chittibabu, S/o. Apparao,

Occ: Business, R/o. Penugollu Village,

S. Rayavaram Mandal, Visakhapatnam

District.

...PETITIONERS

AND

Greater Visakhapatnam Municipal

Corporation, Rep. by its Commissioner,

Tenneti Viswanadham Bhawan,

Asselametta Junction, Visakhapatnam.

...RESPONDENT

ORDER:

This writ petition is filed seeking Writ of Mandamus to declare the action of the respondent in taking over the petitioner's property and removing the trees and bushes thereon, covered by Sy.No.13/3B and Ward No.23A of Chinna Gadili Village within the limits of Greater Visakhapatnam Municipal Corporation and bounded on East: land of vendors; South: 60 Feet Road; West: Land in S.No.13/3A of Dairy Farm and North: Land of Ketha Satyanarayana Murthy, without following due process of law and without paying just compensation as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner is the owner of the land

in a total extent of 580.8 sq. yards situated in Sy.No.13/3B and Ward No.23A of Chinna Gadili Village within the limits of Greater Visakhapatnam Municipal Corporation and the said property was originally conveyed on 13.06.2001 by way of a sale deed by Urimiti Baburao and others in his favour and since then he has been in possession and enjoyment of the same. While so, the respondent and his men and machinery are making preparations to level the land of the petitioner by removing the trees and bushes existing thereon to widen the existing 60 feet Mudasalova road. The learned counsel further submits that the respondent without issuing any notice and without initiating any proceedings and without paying any compensation is highhandedly interfering and middling with the property of the petitioners.

The only grievance of the petitioner is that the respondent without issuing any notice, without paying any compensation for his structures or lands and without following due process of law,
is attempting to dispossess him for the purpose of road-widening.

The learned counsel for the petitioner further submits that the action of respondent without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporations Act (for short 'the Act').

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondent to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
this writ petition is disposed of directing the respondent not to demolish the structures or take away any portion of the property of the petitioner and not to dispossess him without following due process of law either under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

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V. ESWARAIAH, J

March 10, 2006

Note: Furnish C.C. of the order by 13.03.2006

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DSK